REMARKS

Status of the Claims

Claims 1-14 are pending in the present application.

Requirement for Restriction

The Examiner has initiated a requirement for restriction under 35 U.S.C. 121. More specifically, the Examiner requires restriction in the present application between:

Group I, claims 3 and 4, drawn to a method for identifying a pluripotent hepatic progenitor cell, comprising detecting a sugar chain expressed on the pluripotent hepatic progenitor cell, wherein the sugar chain is detected by using a lectin capable of binding to the sugar chain;

Group II, claim 5, drawn to a method for identifying a pluripotent hepatic progenitor cell, comprising detecting a sugar chain expressed on the pluripotent hepatic progenitor cell, wherein the sugar chain is detected by using an antibody capable of binding to the sugar chain;

Group III, claims 6-8, drawn to a method for identifying a pluripotent hepatic progenitor cell, comprising detecting a sugar chain expressed on the pluripotent hepatic progenitor cell, wherein

the sugar chain is via an expression of an enzyme involved in the synthesis of the sugar chain;

Group IV, claims 11, 12 and 14 (as claim 14 reads on the method of claims 11 and 12), drawn to a method for separating a pluripotent hepatic progenitor cell, wherein the pluripotent hepatic progenitor cell is sorted by using a lectin capable of binding to the sugar chain expressed on said cell; and

Group V, claims 13 and 14 (as claim 14 reads on the methods of claim 13), drawn to a method for separating a pluripotent hepatic progenitor cell, wherein the pluripotent hepatic progenitor cell is sorted by using an antibody capable of binding to the sugar chain expressed on said cell.

The requirement for restriction is respectfully traversed. Reconsideration and withdrawal thereof are requested.

For the purpose of examination of the present application, Applicants elect, with traverse, Group I, claims 3 and 4. Presumably, claims 1 and 2 are also within the scope of Group I.

The Examiner has set forth an incomplete Grouping of the claims. For instance, Applicants submit that claims 1 and 2 are also within the scope of Group I, claim 1 is within the scope of Group II, claim 1 is within the scope of Group III, claims 9 and 10 are within the scope of Group IV, and claim 9 is within the scope of Group V.

Clearly, the requirement for restriction is defective in that it fails to set forth which Groups claims 1, 2, 9 and 10 fall within. Applicants should not have to guess where more than one-third of the claims belong. Thus, the requirement for restriction is defective as being confusing and incomplete.

Moreover, claim 1 is clearly generic to Groups I-III, whereas claim 9 is generic to Groups IV and V. The restriction within claims 1-8 [Groups I-III] and claims 9-14 [Groups IV and V] is clearly improper. At best, the Examiner should issue a requirement for restriction between two groups, that is, between claims 1-8 and claims 9-14.

Applicants note that the Examiner is attempting to divide independent and generic claims 1 and 9 into separate inventions. Under the circumstances, an election of species requirement would be appropriate rather than a requirement for restriction. Upon allowance of the elected species, the Examiner should extend the search to other species and then allow the generic claim (e.g. claims 1 or 9) and all dependent claims thereon.

Finally, the Examiner's categorization of claims 1, 2, 9 and 10 as linking claims is believed to be incorrect. Claims 1 and 9 are generic claims and a simple election of species is all that is required after Applicants are requested to elect either claims 1-8 [e.g. Group I, drawn to a method of identifying] or 9-14 [e.g.

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Group II, drawn to a method of separating]. The Examiner is respectfully requested to consider Applicants' grouping of the claims as discussed above.

Election of Species

The Examiner further requires Applicants under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. The Examiner's election of species requirement is also confusing.

The Examiner sets forth several Election of Species Requirements on pages 6-9 of the Office Action. However, only one Election of Species requirement is relevant in view of Applicants' election of Group I, claims 3 and 4, which Group may or may not include claims 1 and 2.

With respect to the Election of Species requirement set forth on page 6 of the Office Action, Applicants agree that claim 1 is generic. Of course, the Examiner has nowhere indicated where claim 1 falls in the requirement for restriction.

Applicants agree that claims 1 and 9 are generic. Claims 6 and 10 are not generic as they are dependent upon claims 1 and 9, respectively. Indeed, claims 6 and 10 merely further define the

invention of claims 1 and 9. However, Applicants do not elect any of claims 6 or 9-14 in view of the Examiner's restriction requirement. Thus, the only applicable Election of Species requirement appears with respect to claim 1.

For the purpose of examination of the present application, Applicants elect, without traverse, [kidney bean] lectin as the species to be examined.

Claims 1, 2, 3 and 4 read on the elected species.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Marc S. Weiner (Reg. No. 32,181) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By _____

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